

Dept of Game

cc: Fenton
Duff
1-31-84
R.

TOWN OF ELECTRIC CITY
BANKS LAKE
PUBLIC PARK CONCESSION AGREEMENT

This Agreement, by and between the Town of Electric City, a municipal corporation, as Grantor, and A.J. Nicholson, Jr., as Grantee, and as approved by the Washington State Parks and Recreation Commission, the Director, Washington State Department of Game, and the Project Manager, Columbia Basin Project, Bureau of Reclamation, for the construction, operation and maintenance of a public park and public recreation oriented facilities.

WITNESSETH:

The Town grants to A.J. Nicholson, Jr., hereinafter referred to as Lessee, the right to construct, operate and maintain a public park, recreation area, and appurtenances thereto on the property herein described, and under the terms and conditions stated herein, to-wit:

Legal Description:

All those portions of the South half of the Southwest quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) and the West half of the Southeast quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Ten (10), Township Twenty-eight (28) North, Range Thirty (30) East, W.M., shown designated as beach and park area on print of drawing number 222-116-23669, attached hereto and made a part hereof as Exhibit "A".

Subject, however, to all easements and restrictions of record.
Subject, however, to all of the terms and conditions of that certain Memorandum of Agreement between The United States of America and The State of Washington, dated on the 6th day of May, 1953, and subject, however, to all of the terms and conditions of that certain Public Park Lease Agreement between the State of Washington and citizens of Grand Coulee and Electric City, Washington, dated on the 1st day of January, 1954, and as amended by the withdrawal of the Citizens of Grand Coulee on April 15, 1966, and as extended to December 31, 2000, by action of the Washington State Parks and Recreation Commission on August 21, 1972, of which copies of the above instruments are attached hereto and incorporated herein as though set forth in full.

SECTION 1: OCCUPANCY

1.01 TERM: This Public Park Concession Agreement, hereinafter referred to as Agreement, shall commence on the 1st day of January, 1984, and continue through the 31st day of December, 1993.

1.02 Renewal or Extension: The Lessee, providing the performance of this Agreement is satisfactory to the Town, shall have a preferential right to apply for the renewal or an extension of this Agreement at the expiration thereof.

1.03 Amendments: This Agreement may be amended at any time during the original or any extended period by mutual agreement of the Town and Lessee, subject to approval of the State and United States.

SECTION 2: USE OF PREMISES

2.01 Permitted Use: The premises shall be used for the operation of a campground, marina, food and beverage service, boating and fishing supply service. All prices, fees and charges shall be submitted to for prior approval by the Town and the State not later than April 15 of each year. Lessee shall maintain public rest rooms, picnic areas, and swimming area at no cost to the public. Acceptance of donations for boat launching privileges may be allowed at the discretion of the Town. Additional use concepts of the area will require the written consent of the Town and the State.

SECTION 3: FEES - RECORD - AUDIT

3.01 Fees: Partial consideration for the use of the herein described premises shall be the mutual recreation benefits afforded the public and the Town. In addition to the mutual benefits, Lessee shall pay to the Town the sum of \$2,000 annually. Any advance payments will not be refunded by the Town of Electric City. First payment to be on January 1, 1984, and on January 1 of each succeeding year thereafter during the term of this Agreement. Monies paid to the Town under this section shall be used to improve the facilities of the described area. Monies not so used shall be paid to the State prior to January 15th of even numbered years. Lessee is authorized to pay any number of the above payments in advance of due dates. This section shall be subject to review during the month of December, 1988. If the Town and Lessee fail to agree on the consideration payable to the Town, a Board of Arbitration consisting of three members shall be convened to resolve the question. One member shall be appointed by the Town and one member by the Lessee. These two members shall appoint the third member. The decision of the Board of Arbitration so appointed shall be binding on all parties thereto.

3.02 Records-Audit: Lessee shall keep a true and accurate record of all monies expended in the construction, operation, and maintenance of the subject area.

3.03 Revenue Report: Prior to April 15th of each year, Lessee shall

furnish to the Town a statement of expenditures and receipts for the past calendar year.

SECTION 4 - RESERVATIONS AND PERFORMANCE

4.01 Reservations: (a) The Town reserves the right of access to the premises for the purpose of securing compliance of the terms of this agreement, and to carry out the normal recreational, safety, and management functions of the area. (b) The specific right for ingress and egress of the officers, agents, employees, and permittees of the State and the United States is reserved for the purpose of carrying out the primary functions of the Columbia Basin Irrigation Project, and the fulfillment of any contracts that have been consummated with the Quincy, South, and East, Irrigation Districts.

4.02 Performance: In conformance with the use of the premises covered under the terms of this Agreement, the Lessee shall:

- a. Obtain all necessary licenses and permits, comply with the laws and regulations of all public authority affecting the premises and use thereof.
- b. Recognize the terms and conditions of the attached MEMORANDUM OF AGREEMENT as executed on the 6th day of May, 1953, between the United States and the State, or any future amendments thereto as a binding Section of this Agreement.
- c. Agree not to discriminate against any employee or applicant for employment or patron of the premises because of race, creed, color, or National origin.
- d. Defend and hold harmless the Town, State, and the United States, their officers, agents, and employees, their successors and assigns, against all claims suffered or alleged to be suffered on the premises or arising out of operations on the premises.
- e. Not assign this Agreement or any portion thereof or grant any sub-lease without the prior approval of the Town, State, and the United States.
- f. Comply with directives and guidelines as issued by the Town, and State, as they relate to the construction and/or operation of the recreational facilities covered under this Agreement.

SECTION 5: FACILITIES - INSURANCE

5.01 Improvements: (a) Lessee shall submit the plans for all improvements to the Town and the State for approval.
(b) All improvements shall become the property of the Town at the expiration of this Agreement.

5.02 Insurance: Lessee shall carry broad cover fire and casualty insurance on all permanent structures. Lessee shall carry property damage insurance in the minimum amount of \$10,000.00. Lessee shall carry a policy of liability insurance in the minimum amount of \$300,000.00/\$300,000.00.

SECTION 6: TERMINATION

6.01 Termination: This Agreement shall terminate and all rights of the Lessee shall cease, except as provided in Section 1.02 and the Lessee shall deliver possession of the premises to the Town:

- (a) At the expiration of the term of this Agreement.
- (b) Upon 30 days' written notice from the Town to Lessee for violation of any of the terms of this Agreement if violation is uncorrected within said 30-day period.
- (c) At any time by mutual agreement of the Town and Lessee.

Dated this 23rd day of November, 1983.

GRANTEE:

D. Nicholson

GRANTOR:

THE TOWN OF ELECTRIC CITY

By: *Raymond R. Haley*
Mayor
Carol Davenport
City Clerk

APPROVED:

WASHINGTON STATE DEPARTMENT OF GAME:

By: *[Signature]*
Dated: 12/15/83

APPROVED:

BUREAU OF RECLAMATION

By: *[Signature]*
Project Manager
Dated: JAN 12 1984

APPROVED:

WASHINGTON STATE PARKS AND
RECREATION COMMISSION

By Jan Tuten

Dated: 12-8-83

APPROVED:

KENNETH EIKENBERRY
Attorney General

By Robert C. Langness
Assistant Attorney General

Dated: November 30, 1983